

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. CR 05-982 ABC

Date October 16, 2012

Present: The Honorable Audrey B. Collins, United States District Judge

Interpreter None present

Angela Bridges

None present

None present

*Deputy Clerk**Court Reporter/Recorder, Tape No.**Assistant U.S. Attorney*U.S.A. v. Defendant(s):Present Cust. BondAttorneys for Defendants:Present App. Ret.

U.S.A. v. Mamdouh S. Bahna, M.D.

None present

**DEFENDANT'S MOTION TO OFFSET BALANCE OF PENALTY AND TO RELEASE
Proceedings: AND RETURN UNCLAIMED RESTITUTION MONIES (IN CHAMBERS)**

Pending before the Court is Defendant Mamdouh Bahna's ("Defendant") Motion to Offset Balance of Penalty and to Release and Return Unclaimed Monies Paid for Restitution ("Motion"), filed on August 17, 2012. The Government filed an Opposition. Defendant filed a Reply on October 9, 2012. The Court finds this matter appropriate for resolution without oral argument and therefore **VACATES** the hearing set for October 22, 2012. See Fed. R. Civ. P. 78, Local Rule 7-15. For the following reasons, the Court **DENIES** the Motion.

Defendant contends that all of the victims of his crime have been notified of the existence of a restitution fund, but that only \$703,955.33 of the \$990,000 that he deposited with the Court as restitution has been paid out to victims, leaving an unclaimed balance of \$286,563.21. Defendant asks the Court to, in effect, order that this balance be used to satisfy the \$146,916 balance of Defendant's \$150,000 fine, and then disburse the remaining balance of \$139,647.21 to him.

This Motion is premature. The Government points out that the Court's Fiscal Unit had not contacted eleven of the victims because it did not have contact information for those names. The Government has now provided this information and anticipates that the Fiscal Unit will contact these victims and issue them restitution checks. Thus, the restitution process is still on-going. Defendant acknowledges this in his Reply.

Also in his Reply, Defendant asks the Court to order the U.S. Attorney's Office "to provide him with complete records of all correspondence and financial records concerning any such returned funds and earned interest as of the date of receipt of payment by the Court. . ." Reply 2:6-15. The Court **DENIES** this request.

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In addition, the Court rejects Defendant's attempt to have his fine paid out of the restitution fund. These funds are reserved for victims and cannot be used to offset Defendant's fine. But, Defendant's Motion does bring to light the fact that he has yet to pay the fine imposed upon him nearly five years ago. Defendant, who at

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the time of sentencing in December 2007 reported having a net worth of about \$26 million, presents no reason for his failure to pay the relatively modest fine imposed upon him. The Court therefore **ORDERS** Defendant to pay his fine **within thirty (30) days** of the issuance of this Order.

IT IS SO ORDERED.

Initials of Deputy :
Clerk AB

cc: Michelle Carey, Chief Probation Officer
PSA/Fiscal